

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

MAY 04 2018

Clerk, U.S. District Court
District Of Montana
Missoula

RAY HOLMES,

Petitioner,

vs.

JAMES SALMONSON,

Respondent.

CV 18-08-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendations in this case on March 21, 2018, recommending denial of Petitioner Ray Holmes's ("Holmes") petition for writ of habeas corpus under 28 U.S.C. § 2254. Holmes has failed to timely object to the findings and recommendations, and has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Lynch found, and this Court agrees, that that this matter should be dismissed because Holmes failed to make a substantial showing that he was deprived of a constitutional right, and his petition is unexhausted.

Accordingly, IT IS ORDERED that Judge Lynch's Findings and Recommendations (Doc. 10) are ADOPTED IN FULL. Holmes's Amended Petition (Doc. 4) is DISMISSED without prejudice.

IT IS FURTHER ORDERED that the Clerk of Court shall enter, by separate document, a judgment in favor of Respondents and against Petitioner.

IT IS FURTHER ORDERED THAT a certificate of appealability is DENIED.

DATED this 4th day of May, 2018.



Dana L. Christensen, Chief Judge
United States District Court